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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,700

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John D Martin

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06/23/2008

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EXAMINER

SAVAGE, MATTHEW O

ART UNIT

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,700	Applicant(s) MARTIN, JOHN D	
	Examiner Matthew O. Savage	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 20 and 22-25 is/are rejected.
- 7) ☒ Claim(s) 17-19 and 21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7-10-06</u> . | 6) <input type="checkbox"/> Other: ____. |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Council.

With respect to claim 1, Council discloses a fluid treatment and media management device employing a non-bonded media 12 including a media column defined by a spaced apart members 64, 70 adapted for containing the non-bonded media therebetween, the members arranged so that an influent flows through the members and the non-bonded media; a first member 64 adapted for allowing the influent to flow therethrough and then through the non-bonded media to produce an effluent, and a second member 70 adapted for allowing the effluent to flow therethrough; and an outlet 32 of the non-bonded media column adapted for allowing the non-bonded media to be removed from the non-bonded media column without disassembly of the fluid treatment and media management device.

Claims 1-4, 6, 8-10, 12, 15, 16, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson.

With respect to claim 1, Johnson discloses a fluid treatment and media management device employing a non-bonded media 54 including a media column defined by a spaced apart members 50, 51 adapted for containing the non-bonded media therebetween, the members arranged so that an influent flows through the members and the non-bonded media; a first member 50 adapted for allowing the influent to flow therethrough and then through the non-bonded media to produce an effluent, and a second member 51 adapted for allowing the effluent to flow therethrough; and an outlet 62 of the non-bonded media column adapted for allowing the non-bonded media to be removed from the non-bonded media column without disassembly of the fluid treatment and media management device.

Concerning claim 2, Johnson discloses the non-bonded media column as being annular shaped, and each member has perforations formed therein, and a mesh screen associated with each said member, each said mesh screen adapted for containing the non-bonded media.

Regarding claim 3, Johnson discloses discloses a first end cap 16 adapted for closing an end of the media column, the first end cap including an opening (e.g., covered by plug 62) therethrough for passage of said non-bonded media.

As to claim 4, Johnson discloses the first end cap as defining a bottom end cap.

Regarding claim 6, Johnson discloses a second end cap 13 adapted for closing another end of the media column.

Concerning claim 8, Johnson discloses the end caps as being formed of a moldable material (e.g., steel).

As to claim 9, Johnson discloses the first end cap as including a port 34 for carrying the influent to the first member.

Concerning claim 10, Johnson discloses the first end cap as including a port 25 for carrying the effluent from the second member.

Regarding claim 12, Johnson discloses the first end cap further includes a first port 34 carrying influent to the first member, and a second port 25 carrying fluid from the second member.

With respect to claim 15, Johnson discloses a fluid treatment and media management device employing a particulate treatment media including an inner and outer perforated cylinder 51, 50, the inner perforated cylinder 50 having a central core, the inner perforated cylinder 51 being concentric with the outer perforated cylinder 50, a space between the inner and outer perforated cylinders adapted for containing the non-bonded media, the space defining a media chamber 54; a case 10 encircling the first and second perforated cylinders 51, 50, the case spaced apart from the second perforated cylinder 50 to provide an annular area 59; a first end cap 16 and a second end cap 13, the end caps engaging opposite ends of said case to provide an enclosed housing around the inner and outer perforated cylinders 51, 50, the end caps engaging opposite ends of the inner and outer perforated cylinders to provide support thereto, at least one end cap 16 having an inlet port 34 for carrying an influent to the annular area, at least one end cap 16 having an outlet port 25 for carrying an effluent from the central core of the inner perforated cylinder 51.

Concerning claim 16, Johnson discloses the end cap 16 as including a media port 26 coupled to the media chamber 54 for allowing passage of the non-bonded media through the port external to the fluid treatment and media management device.

Regarding claim 20, Johnson discloses the inner and outer perforated cylinders 51, 50 as having perforations substantially along an entire length thereof.

Claims 1-4 and 6-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Sandberg et al.

With respect to claim 1, Sandberg et al disclose a fluid treatment and media management device employing a non-bonded media including a media column 32 defined by a spaced apart members 11, 12 adapted for containing the non-bonded media therebetween, the members arranged so that an influent flows through the members and the non-bonded media; a first member 11 adapted for allowing the influent to flow therethrough and then through the non-bonded media to produce an effluent, and a second member 12 adapted for allowing the effluent to flow therethrough; and an outlet 44 of the non-bonded media column adapted for allowing the non-bonded media to be removed from the non-bonded media column without disassembly of the fluid treatment and media management device.

Concerning claim 2, Sandberg et al disclose the non-bonded media column as being annular shaped, and each member has perforations formed therein, and a mesh screen 35, 36 associated with each said member, each mesh screen adapted for containing the non-bonded media.

Regarding claim 3, Sandberg et al discloses disclose a first end cap 5 adapted for closing an end of the media column, the first end cap including an opening (e.g., covered by plug 44) therethrough for passage of said non-bonded media.

As to claim 4, Sandberg et al disclose the first end cap as defining a bottom end cap (e.g., in the case that the filter is inverted from the position shown in FIG. 1).

Regarding claim 6, Sandberg et al disclose a second end cap 3 adapted for closing another end of the media column.

As to claim 7, Sandberg et a disclose end caps 3 and 5 that are substantially identical in structure.

Concerning claim 8, Sandberg et al disclose the end caps as being formed of a moldable material (e.g., plastic material, see lines 24-26 of page 8).

As to claim 9, Sandberg et al disclose the first end cap as including a port 28 for carrying the influent to the first member.

Concerning claim 10, Sandberg et al disclose the first end cap as including a port 29 for carrying the effluent from the second member.

Regarding claim 11, Sandberg et al disclose the end cap 5 as having a frustoconical portion 33, the opening being formed in the frustoconical portion.

Regarding claim 12, Sandberg et al disclose the first end cap further includes a first port 28 carrying influent to the first member, and a second port 29 carrying fluid from the second member.

Concerning claim 13, Sandberg et al discloses a second end cap 3 that is substantially identical to the first end cap 5.

As to claim 14, Sandberg et al disclose a bore 28 formed axially into the first end cap and an annular recess (e.g., holding o-ring 8) in communication with the bore.

Claims 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis.

With respect to claim 22, Davis discloses a method of treating a fluid with a non-bonded media including the steps of: passing the fluid through a fluid treatment and media management device and through the non-bonded media (e.g., into inlet 18, through the bed, and out of outlet channel 20, see lines 27-33 of col. 2); once the non-bonded media is ineffective to treat the fluid, removing the non-bonded media from the fluid treatment and media management device without disassembly thereof (see lines 45-54 of col. 2); the step of removing the non-bonded media including transferring the non-bonded media out of the fluid treatment and media management device through a media access channel 22.

As to claim 23, Davis inherently includes the step of making the non-bonded media into a slurry and then transferring the non-bonded media out of the fluid treatment and media management device (e.g., since the material includes water after it has been removed, see lines 57-62 of col. 2).

Concerning claim 24, Davis discloses the non-bonded media in regeneration equipment external to the fluid treatment and media management device, and transferring the regenerated non-bonded media back into the fluid treatment and media management device (see the abstract).

With respect to claim 25, Davis discloses a fluid treatment and media management device employing a particulate treatment media including a case 12 for housing the non-bonded media; an inlet 18 formed in the case for admitting an influent into said case; an outlet 20 formed in the case for exit of an effluent from the case; a media access channel 22 coupled to the non-bonded media, the media access channel adapted for allowing the non-bonded media to be removed from the case without disassembly of the fluid treatment and media management device.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sandberg et al.

Sandberg et al fail to specify a valve for controlling an open and closed state of the opening in the end cap, however, such a modification, for example, in the form of a pinch valve installed on a length of resilient tubing, is well known and would have been obvious in order to control the flow of non-bonded material from a source of the material into the apparatus.

Claims 17-19 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O. Savage whose telephone number is (571) 272-1146. The examiner can normally be reached on Monday-Friday, 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew O Savage/
Primary Examiner
Art Unit 1797

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